

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Norbert Nessler  
Serial Number: 10/528,841  
Filed: February 8, 2006  
For: DEVICE FOR TESTING A NEUTRAL ELECTRODE  
Art Unit: 4116  
Examiner: Ronald James Hupczey, Jr.  
Confirmation: 8532  
Atty doc: 042-05  
(order no): (7631)

**SUBSTITUTE AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

This is a response to a Notice of Non-Compliant Amendment issued October 1, 2009, a copy of which is attached as Exhibit "A". The Examiner has stated that the amendment document filed on 12 February 2009 is non-compliant as each claim has not been provided with a proper status identifier. Specifically, the Examiner has recited: "*... claims 15-20 are not [sic] associated with proper status identifiers. Applicant is directed to ... above section C and ... MPEP 714 C(A) and 714 C (E).*"

In a Preliminary Amendment filed with the application on February 8, 2006, claims 18, 19, and 20 were amended. In a first Office Action dated July 10, 2008, claims 15- 20 were allowed. In applicant's Amendment filed January 8, 2009, the claim identifiers for claims 15- 20 were recited as follows:

15.(original-allowed)

16.(original-allowed)

- 17.(original-allowed)
- 18.(previously presented-allowed)
- 19.(previously presented-allowed)
- 20.(previously presented-allowed)

The Examiner issued a first Notice of Non-compliant Amendment on February 11, 2009 regarding improper claim status identifiers. Applicant filed a Re-Filed Amendment on February 12, 2009 changing the identifier for claim 3 from (deleted) to (cancelled), but leaving the claim identifiers for claims 15- 20 unchanged.

The Commissioner, in MPEP §714 II.C.(E) has mandated:

*"To prevent delays in prosecution, the Office will waive certain provisions of 37 CFR 1.121 and accept alternative status identifiers not specifically set for in 37 CFR 1.121(c). ...*

*Accordingly claim listings that include alternative status identifiers as set forth below may be accepted ... Withdrawn-new ... Withdrawn - currently amended ... "*

The MPEP §714 II.C.(E) further mandates:

*"The Office may also accept additional variations of the status identifiers provided in 37 CFR 1.121(c) not listed above if an Office personnel determines that the status of the claims is accurate and clear."*

The present status identifiers for each of claims 15- 20 carries the exact wording prescribed by 37 CFR 1.121(c), i.e., "original" or "previously presented". In addition, in the spirit of additional wording being allowed pursuant to §714 II.C.(E), the claim identifiers for claims 15- 20 carried the additional wording: "-allowed". Pursuant to the above-recited portion of §714 II.C.(E), the Examiner must make a determination that the additional wording "-allowed" is inaccurate and/or unclear. It is not. However, in order to advance the prosecution, the additional wording

"-allowed" has been removed from the claim identifiers for claims 15- 20 in this Substitute Amendment which is being timely filed.

Kindly amend the above-cited application as follows.

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